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WILLIAMSPORT, PA

FEB 11 2002

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

MARY E. D'ANDREA, CLERK  
Per KF  
Deputy Clerk

EMANUEL THOMAS NEWMAN, :  
Plaintiff :  
 :  
v. : Civil No. 1:CV-01-0677  
 : (Rambo, J.)  
RONALD L. JURY, Lieutenant, :  
SIS, et al., :  
Defendants :

**DEFENDANTS' BRIEF IN SUPPORT  
OF THEIR MOTION TO DEPOSE PLAINTIFF**

**I. Procedural History**

Plaintiff is Emanuel Thomas Newman, a federal inmate formerly incarcerated at the Allenwood United States Penitentiary in White Deer, Pennsylvania ("USP Allenwood").<sup>1</sup> On April 18, 2001, Newman filed a Bivens complaint alleging his rights were violated by the defendants. An answer to the complaint was filed on July 16, 2001. Defendants have filed a motion seeking leave to depose the inmate plaintiff pursuant to Fed. R. Civ. P. 30(a)(2). This brief is submitted in support of that motion in accordance with M.D. Pa. Local Rule 7.5.

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<sup>1</sup> Newman is presently confined at the Federal Correctional Institution in Pekin, Illinois.

## II. Question Presented

Should defendants be granted leave to depose the inmate plaintiff?

## III. Argument

**DEFENDANTS SHOULD BE GRANTED LEAVE TO DEPOSE THE INMATE PLAINTIFF.**

Pursuant to Fed. R. Civ. P. 30(a)(2), "[a] party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in Rule 26(b)(2), if the person to be examined is confined in prison. . . ." Defendants submit that Newman is confined in prison and, therefore, they request that the Court grant them leave to depose the plaintiff.

In that Newman is the plaintiff, he obviously possesses relevant knowledge about the allegations in the complaint and the injuries and damages he claims to have suffered. By deposing plaintiff, defendants will be able either to present a motion for summary judgment based on the disputed facts or to appropriately prepare for trial so they and their counsel can address the issues and facts concisely and cogently. See Miller v. Bluff, 131 F.R.D. 698, 700 (M.D. Pa. 1990) (concluding that "[t]he plaintiff himself started this lawsuit and any defendant surely is entitled to take his deposition in conjunction therewith").

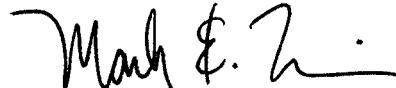
Accordingly, in order to prepare a dispositive motion and/or for trial, defendants request leave to depose the plaintiff inmate.

IV. Conclusion

For the reasons stated above, defendants request this Court to grant their motion to depose the inmate plaintiff.

Respectfully submitted,

MARTIN C. CARLSON  
United States Attorney

A handwritten signature in black ink, appearing to read "Mark E. Morrison".

MARK E. MORRISON  
Assistant U.S. Attorney  
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Paralegal Specialist  
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Date: February 11, 2002

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MIDDLE DISTRICT OF PENNSYLVANIA

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Plaintiff :  
v. : Civil No. 1:CV-01-0677  
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

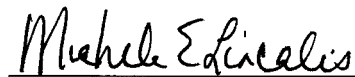
That on February 11, 2002, she served a copy of the attached

**DEFENDANTS' BRIEF IN SUPPORT  
OF THEIR MOTION TO DEPOSE PLAINTIFF**

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Williamsport, Pennsylvania.

Addressee:

Emanuel Thomas Newman  
Reg. No. 13418-039  
FCI Pekin  
P.O. Box 5000  
Pekin, IL 61555-5000

  
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MICHELE E. LINCALIS  
Paralegal Specialist